



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

75 Hawthorne Street
San Francisco, CA 94105-3901

SEP 25 2006

CERTIFIED MAIL NO. 7000 0520 0025 3713 4843
RETURN RECEIPT REQUESTED

IN REPLY: AIR-5

REFER TO: Docket No. CAA-9-2006-0024

Mr. Robert N. Cimbalo
Manager
Edgington Oil Company
2400 East Artesia Boulevard
Long Beach, CA 90805

Dear Mr. Cimbalo:

Enclosed is a copy of a Complaint and Notice of Opportunity for Hearing filed pursuant to Section 113(d) of the Clean Air Act, 42 U.S.C. § 7413(d) (the "Act"). The Complaint alleges that Edgington Oil Company failed to comply at its Long Beach petroleum refinery with emissions monitoring and semi-annual reporting requirements of the New Source Performance Standards, 40 C.F.R. Part 60, Subparts A and J, promulgated pursuant to Section 111 of the Act. These alleged violations are more specifically set forth in the Complaint.

As set forth in the Complaint, you are required to respond to this Complaint within thirty (30) days of receipt of the Complaint. If you fail to file an Answer to this Complaint with the Regional Hearing Clerk within thirty (30) days of receipt, your failure may constitute an admission of all facts alleged in the Complaint and a waiver of your right to a hearing. The proposed civil penalty shall become due and payable sixty (60) days after a final order is issued upon default.

Copies of the following rules and regulations are included for your information:
(1) the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, as amended on February 4, 1992; and (2) the Clean Air Act Stationary Source Civil Penalty Policy.

If you wish to discuss this Complaint, your attorney may contact David Kim, Associate Regional Counsel, at (415) 972-3882, or you may contact Mark Sims, Enforcement Office, at (415) 972-3965.

Sincerely,

A handwritten signature in dark ink, appearing to read "Deborah Jordan", with a stylized, flowing script.

Deborah Jordan
Director, Air Division

Enclosures

cc: California Air Resources Board
South Coast Air Quality Management District



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105-3901

SEP 25 2006

Dr. Barry R. Wallerstein
Executive Officer
South Coast Air Quality Management District
21865 Copley Drive
Diamond Bar, CA 91765

Dear ~~Dr.~~ ^{Barry} Wallerstein:

Enclosed for your information is a copy of the Complaint and Notice of Opportunity for Hearing regarding Edgington Oil Company for violations of Section 111 of the Clean Air Act at its petroleum refinery in Long Beach, California.

If you have any questions, please contact Mark Sims, Enforcement Office, at (415) 972-3965.

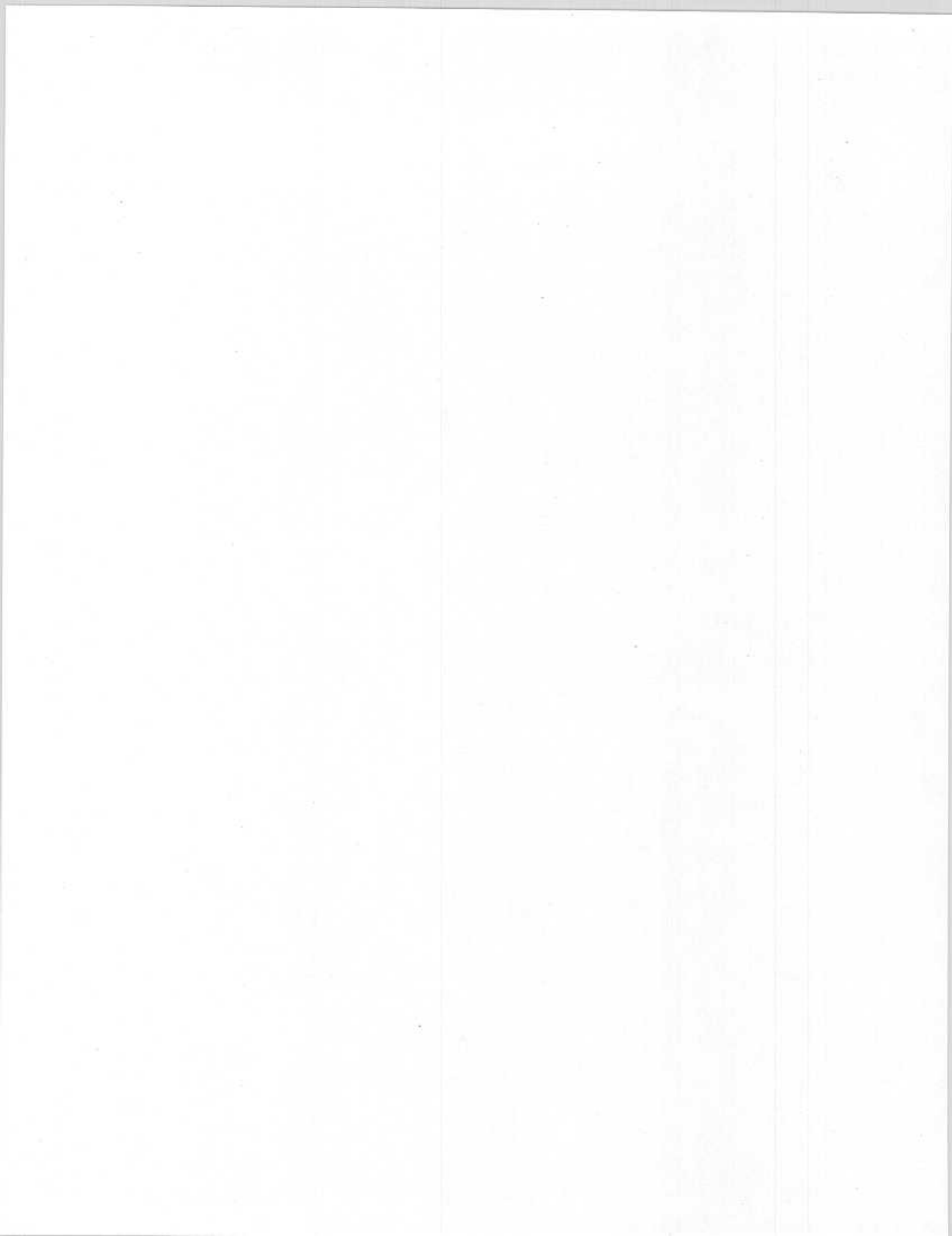
Sincerely,

A handwritten signature in cursive script, appearing to read "Deborah Jordan".

Deborah Jordan
Director, Air Division

cc: Mr. James Ryden (CARB)

Enclosure





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

75 Hawthorne Street
San Francisco, CA 94105-3901

SEP 25 2006

Mr. James Ryden
Director
Enforcement Division
California Air Resources Board
P.O. Box 2815
Sacramento, CA 95812

Dear Mr. Ryden:

Enclosed for your information is a copy of the Complaint and Notice of Opportunity for Hearing regarding Edgington Oil Company for violations of Section 111 of the Clean Air Act at its petroleum refinery in Long Beach, California.

If you have any questions, please contact Mark Sims, Enforcement Office, at (415) 972-3965.

Sincerely,

A handwritten signature in black ink, appearing to read "Deborah Jordan", is written over a horizontal line.

Deborah Jordan
Director, Air Division

cc: Dr. Barry Wallerstein (SCAQMD)

Enclosure

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 9
75 HAWTHORNE STREET
SAN FRANCISCO, CALIFORNIA 94105

FILED

SEP 27 AM 9:05

REGIONAL HEARING CLERK

IN RE:

EDGINGTON OIL COMPANY

RESPONDENT

) DOCKET NO. CAA-9-2006-0024

) COMPLAINT AND NOTICE OF
) OPPORTUNITY FOR HEARING
)
)
)

PRELIMINARY STATEMENT

Complainant, the Director of the Air Division, United States Environmental Protection Agency ("EPA"), Region 9, is issuing this Complaint and Notice of Opportunity for Hearing ("Complaint") pursuant to Section 113(d) of the Clean Air Act (the "Act"), as amended, 42 U.S.C. § 7413(d). The Administrator of EPA ("Administrator") delegated the authority to issue complaints such as this one in California to the Regional Administrator of Region 9 and the Regional Administrator, in turn, re-delegated that authority to Complainant. Respondent is Edgington Oil Company ("Respondent").

Complainant will show that Respondent violated Section 111 of the Act, 42 U.S.C. § 7411, and its implementing regulations set forth at 40 C.F.R. Part 60, Subparts A and J, a copy of which is enclosed with this Complaint.

STATUTORY AND REGULATORY BACKGROUND

1. The primary purpose of the Act is to protect and enhance the quality of the nation's air resources so as to promote the public health and welfare and the productive capacity of its population. See 42 U.S.C. § 7401(b)(1).

2. Section 111 of the Act, 42 U.S.C. § 7411, required EPA to publish a list of categories of stationary sources that, in EPA's judgment, cause or contribute significantly to air pollution which may reasonably be anticipated to endanger the public health or welfare, and to promulgate standards of performance for new sources within those categories. These standards are commonly known as the New Source Performance Standards ("NSPS") and are codified at 40 C.F.R. Part 60.
3. On December 23, 1971, EPA promulgated the NSPS for petroleum refineries, codified at 40 C.F.R. Part 60, Subpart J, §§ 60.100 through 60.109 ("Subpart J"). See 36 Fed. Reg. 24877.
4. Subpart J applies to "the following affected facilities in petroleum refineries: fluid catalytic cracking unit catalyst regenerators, fuel gas combustion devices, and all Claus sulfur recovery plants. . . ." 40 C.F.R. § 60.100(a).
5. Under 40 C.F.R. § 60.101(g), the term "fuel gas combustion device" means "any equipment, such as process heaters, boilers and flares used to combust fuel gas, except facilities in which gases are combusted to produce sulfur or sulfuric acid."
6. Under 40 C.F.R. § 60.105(a)(3) and (4), the owner or operator of any fuel gas combustion device subject to Subpart J must install, calibrate, maintain a continuous emissions monitoring system ("CEMS") for either sulfur dioxide ("SO₂") emissions into the atmosphere or hydrogen sulfide ("H₂S") content of fuel gases before they are burned in any fuel gas combustion device.
7. The owner or operator of any affected facility subject to NSPS must also comply with general provisions of NSPS, set forth at 40 C.F.R. Part 60, Subpart A, §§ 60.1 through 60.19.
8. Under 40 C.F.R. § 60.13(i), the owner or operator of any affected source subject to any

monitoring procedures or requirements of the NSPS may obtain a written approval from EPA for any alternative monitoring system.

9. Under 40 C.F.R. § 60.7(c), the owner or operator of any affected source required to install CEMS must submit excess emissions and monitoring systems performance reports and/or summary report forms to EPA semi-annually.

GENERAL ALLEGATIONS

10. Respondent is a corporation incorporated in the State of California.
11. At all times relevant to this proceeding, Respondent is a "person" as that term is defined in Section 302(e) of the Act, 42 U.S.C. § 7602(e).
12. Respondent owns and operates a petroleum refinery located at 2400 East Artesia Boulevard, Long Beach, California (the "Facility").
13. Respondent is an "owner or operator" of the Facility as those terms are defined in Section 111(a)(5) of the Act, 42 U.S.C. § 7411(a)(5).
14. The Facility contains a "fuel gas combustion device" as that term is defined by 40 C.F.R. § 60.101(g), and thus is subject to Subparts A and J of NSPS.

COUNT I: VIOLATION OF NSPS FOR PETROLEUM REFINERIES,

40 C.F.R. § 60.105

15. Paragraphs 1 through 14 are realleged and incorporated herein by reference.
16. From about October 2001 through February 12, 2004, Respondent failed to operate CEMS for the fuel gas combustion device at the Facility.
17. On or about February 12, 2004, Respondent filed an application with EPA for approval of an alternative monitoring system for H₂S emissions from the fuel gas combustion device at the Facility pursuant to 40 C.F.R. § 60.13(i).

18. Respondent's failure to operate CEMS or an EPA-approved alternative monitoring system for the fuel gas combustion device at the Facility from about October 2001 through February 12, 2004 constitutes a violation of 40 C.F.R. § 60.105.

COUNT II: VIOLATION OF NSPS GENERAL REGULATIONS, 40 C.F.R. § 60.7

19. Paragraphs 1 through 14 are realleged and incorporated herein by reference.
20. From about January 2002 through January 2005, Respondent failed to submit semi-annual excess emission reports and/or summary report forms for the fuel gas combustion device at the Facility to EPA.
21. Respondent's failure to submit semi-annual excess emission reports and/or summary report forms for the fuel gas combustion device at the Facility to EPA from about January 2002 through January 2005 constitutes a violation of 40 C.F.R. § 60.7.

PROPOSED CIVIL PENALTY

Section 113(d) of the Act, 42 U.S.C. § 7413(d), and the Civil Monetary Penalty Inflation Adjustment Rule at 40 C.F.R. Part 19 authorizes a civil administrative penalty of up to Twenty-Seven Thousand Five Hundred Dollars (\$27,500) per day for each violation of the Act that occurred between January 30, 1997 and March 15, 2004, and up to Thirty-Two Thousand Five Hundred Dollars (\$32,500) per day for each violation of the Act that occurred after March 15, 2004, provided that the total amount of penalty assessed does not exceed Two Hundred Twenty Thousand Dollars (\$220,000) or Two Hundred Seventy Thousand Dollars (\$270,000), respectively. For purposes of determining the amount of the civil penalty to be assessed, Section 113(e) of the Act, 42 U.S.C. § 7413(e), requires EPA to consider the size of the business, the economic impact of the penalty on the business, the violator's compliance history and good faith

efforts to comply, the duration of the violation as established by any credible evidence, payment by the violator of penalties previously assessed for the same violation, the economic benefit of noncompliance, and the seriousness of the violation. Accordingly, Complainant requests that after consideration of these statutory assessment factors, the Administrator assess against Respondent a civil administrative penalty of up to \$27,500 for each violation of the Act that occurred between January 31, 1997 and March 15, 2004, and \$32,500 for each violation of the Act that occurred after March 15, 2004, as set forth above.

NOTICE OF OPPORTUNITY FOR HEARING

As provided in Section 113(d) of the Act, 42 U.S.C. § 7213(d), you have the right to request a formal hearing to contest any material fact set forth in this Complaint or to contest the appropriateness of the proposed penalty. Any hearing requested will be conducted in accordance with the Administrative Procedure Act, 5 U.S.C. § 551 et seq., and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits ("Consolidated Rules of Practice"), 40 C.F.R. Part 22. A copy of the Consolidated Rules of Practice is enclosed with this Complaint.

You must file a written Answer within thirty (30) days of receiving this Complaint to avoid being found in default, which constitutes an admission of all facts alleged in the Complaint and a waiver of the right to a hearing, and to avoid having the above penalty assessed without further proceedings. If you choose to file an Answer, you are required by the Consolidated Rules of Practice to clearly and directly admit, deny, or explain each of the factual allegations contained in this Complaint to which you have any knowledge. If you have no knowledge of a particular fact and so state, the allegation is considered denied. Failure to deny any of the allegations in this

Complaint will constitute an admission of the undenied allegation.

The Answer shall also state the circumstances and arguments, if any, which are alleged to constitute the grounds of defense, and shall specifically request an administrative hearing, if desired. If you deny any material fact or raise any affirmative defense, you will be considered to have requested a hearing.

The Answer must be filed with:

Regional Hearing Clerk
USEPA, Region IX
75 Hawthorne Street
San Francisco, CA 94105

In addition, please send a copy of the Answer and all other documents that you file in this action to:

David H. Kim
Assistant Regional Counsel
Office of Regional Counsel (ORC-3)
USEPA, Region IX
75 Hawthorne Street
San Francisco, CA 94105

Mr. Kim is the attorney assigned to represent EPA in this matter. His telephone number is (415) 972-3882.

You are further informed that the Consolidated Rules of Practice prohibit any ex parte (unilateral) discussion of the merits of any action with the Regional Administrator, Regional Judicial Officer, Administrative Law Judge, or any person likely to advise these officials in the decision of the case, after the Complaint is issued.

INFORMAL SETTLEMENT CONFERENCE

EPA encourages all parties against whom a civil penalty is proposed to pursue the

possibility of settlement through informal conferences. Therefore, whether or not you request a hearing, you may confer informally with EPA through Carol Bussey, the EPA attorney assigned to this case, regarding the facts of this case, the amount of the proposed penalty, and the possibility of settlement. An informal settlement conference does not, however, affect your obligation to file an Answer to this Complaint.

ALTERNATIVE DISPUTE RESOLUTION

The parties also may engage in any process within the scope of the Alternative Dispute Resolution Act, 5 U.S.C. § 581 et seq., which may facilitate voluntary settlement efforts. Dispute resolution using alternative means of dispute resolution does not divest the Presiding Officer of jurisdiction nor does it automatically stay the proceeding.

CONSENT AGREEMENT AND FINAL ORDER

EPA has the authority, where appropriate, to modify the amount of the proposed penalty to reflect any settlement reached with you in an informal conference or through alternative dispute resolution. The terms of such an agreement would be embodied in a Consent Agreement and Final Order. A Consent Agreement signed by both parties would be binding as to all terms and conditions specified therein when the Regional Judicial Officer signs the Final Order. The Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits ("Consolidated Rules of Practice"), 40 C.F.R. Part 22, govern these proceedings. A copy of the Consolidated Rules of Practice accompanies this Complaint.

Dated at San Francisco, California on this 25th day of September, 2006.

A handwritten signature in cursive script, appearing to read "Deborah Jordan", written over a horizontal line.

Deborah Jordan
Director, Air Division
USEPA Region 9

CERTIFICATE OF SERVICE

I certify that the original and a copy of the foregoing Complaint and Notice of Opportunity for Hearing was hand delivered to:

Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 9
75 Hawthorne Street
San Francisco, CA 94105

and that a true and correct copy of the Complaint; Section 111 of the Clean Air Act, 42 U.S.C. § 7411; the Consolidated Rules of Practice, 40 C.F.R. Part 22; and the Clean Air Act Stationary Source Civil Penalty Policy were placed in the United States Mail, certified mail, return receipt requested, addressed to the following:

Robert N. Cimbalo
Manager
Edgington Oil Company
2400 Artesia Boulevard
Long Beach, CA 90805

Certified Return Receipt No. 7000 0520 0025 3713 4243

Dated: 9/27/06

By:

Heidi R...

Office of Regional Counsel
USEPA, Region 9

